

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

MICHAEL S. NEELY v. STATE OF TENNESSEE

Appeal from the Circuit Court for Rutherford County
No. F-41655 James K. Clayton, Judge

No. M2003-02544-CCA-R3-PC - Filed October 13, 2004

The Defendant, Michael S. Neely, appeals from the order of the trial court dismissing his petition for post-conviction relief as time-barred. The State has filed a motion requesting that this court affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. We grant the State's motion and affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed pursuant to Rule 20, Rules of the Tennessee Court of Criminal Appeals

DAVID H. WELLES, J., delivered the opinion of the court, in which THOMAS T. WOODALL and ROBERT W. WEDEMEYER, JJ., joined.

Michael S. Neely, Nashville, Tennessee, Pro Se.

Paul G. Summers, Attorney General and Reporter; John H. Bledsoe, Assistant Attorney General; and William C. Whitesell, Jr., District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The petition for post-conviction relief in this case alleges that the Defendant was convicted on March 24, 1998, upon his "best interest plea," of two counts of rape of a child. He has previously filed a petition for post-conviction relief, which was dismissed as barred by the statute of limitations. See Neely v. State, 34 S.W.3d 879 (Tenn. Crim. App. 2000). On September 11, 2003, the Defendant again filed a petition for post-conviction relief. The trial court summarily dismissed this petition as barred by the statute of limitations. It is from this order of the trial court that the Defendant now appeals.

This petition was clearly filed after the expiration of the one-year statute of limitations. See Tenn. Code Ann. § 40-30-102(a). The petition alleges no grounds, and none are apparent from the record, that would defeat the application of the statute of limitations.

Accordingly, the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20 of the Rules of the Court of Criminal Appeals.

DAVID H. WELLES, JUDGE